

UTILITIES DIVISION[199]

Notice of Intended Action

Proposing rule making related to complaint procedures and providing an opportunity for public comment

The Utilities Board hereby proposes to amend Chapter 6, “Complaint Procedures,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 474.5 and 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 476.2, 476.3 and 476.103.

Purpose and Summary

The purpose of this rule making is to update and amend the Board’s rules establishing procedures for informal and formal complaints. The Board issued an order requesting stakeholder comments on proposed amendments to Chapter 6, the Board’s rules that establish procedures for filing informal and formal complaints with the Board. The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; the Joint Utility Companies (Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy Company; Interstate Power and Light Company; ITC Midwest LLC; Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities; and MidAmerican Energy Company); the Iowa Association of Electric Cooperatives; and the Iowa Communications Alliance filed comments addressing the proposed amendments.

The Board reviewed the stakeholder comments and proposes the following amendments to the informal and formal complaint procedure rules to address some of the comments and clarify the Board’s procedures. In addition to making editorial changes for clarification, the Board has separated the procedures for an informal complaint and the formal complaint request process, has proposed timelines for taking certain actions during the informal complaint process, and has proposed that the Board may open an informal investigation before issuing an order when a request for a formal complaint proceeding is made by pleading.

The Board issued an order on April 30, 2018, commencing this rule making. The order provides a full discussion of the proposed amendments and is available on the Board’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2016-0012.

Fiscal Impact

These proposed amendments update and amend existing rules that are required to be followed by persons filing, and utilities responding to, complaints. No additional actions having a fiscal impact are being proposed.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

No waiver provision is included in the proposed amendments since the Board has a general waiver provision in 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on July 10, 2018. Comments should be directed to:

Iowa Utilities Board
Electronic Filing System (EFS) at efs.iowa.gov
Phone: 515.725.7337
Email: efshelpdesk@iub.iowa.gov

Public Hearing

An oral presentation at which persons may present their views orally or in writing will be held as follows:

July 24, 2018	Board Hearing Room
1 to 2:30 p.m.	1375 East Court Avenue
	Des Moines, Iowa

Persons who wish to make oral comments at the oral presentation may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the oral presentation and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 199—6.1(476) as follows:

199—6.1(476) ~~Inquiry~~ General inquiries. Any person may seek assistance from the Iowa utilities board by appearing in person ~~or placing a telephone call to the Consumer Services Section, Iowa Utilities Board, at the board's office at 1375 E. Court Avenue, Room 69, Des Moines, Iowa;~~ by mailing an inquiry to the board's office; by placing a telephone call to the board's customer service center at (515)725-7321 or toll-free (877)565-4450; or by sending an inquiry by electronic mail to customer@iub.iowa.gov. ~~Consumer services may advise the person of the application of the rules, inform the person of utility complaint procedures and advise of written complaint procedures before the board. However, the complaint procedures set forth below are available only after a written complaint is filed.~~ Customer service staff shall obtain the information necessary to either answer the inquiry or direct the person to the appropriate staff person who can provide a response.

ITEM 2. Amend rule 199—6.2(476) as follows:

199—6.2(476) ~~Complaint~~ Informal complaint procedures. ~~Any person or body politic may file a written complaint requesting a determination of the reasonableness of rates, charges, schedules, service, regulations or anything done or not done by a public utility subject to service or rate regulation by the board. Assistance may be requested in the following manner. Any person may submit a written~~

complaint to the board requesting a determination of the reasonableness of rates, charges, schedules, service, regulations, or anything done or not done by a public utility subject to service or rate regulation by the board. "Person" as used in this chapter shall include a person as defined in Iowa Code section 4.1(20).

6.2(1) Information to be filed. Any person may, by filing a written complaint, request the board to determine whether the utility's charges, practices, facilities or services are in compliance with applicable statutes and rules established by the board, or by the utility in its tariff, and lawfully issued board orders. A written complaint may be filed by facsimile or electronic mail. If there is any question about the authenticity of the complaint, the complainant may be required to file a letter verifying the written complaint. The board may initiate a complaint on its own motion. The written complaint should include the following information:

a. The name of the utility involved, any utility personnel known or believed to be familiar with the facts stated in the letter complaint, and the location of the office of the utility where the complaint was originally made and processed.

b. The name of the complainant. If the complaint is being filed made on behalf of a person other than the complainant, an affidavit from the person injured by the practice about which the complaint is made should be included stating that the complaint has been received and is believed to be true and accurate to the best of the knowledge of the injured person upon whose behalf the complaint is being made that attests to the accuracy of the complaint should be included. A complaint filed by an organization on behalf of its members shall include an affidavit signed by an officer of the organization.

c. The address, or addresses, of the premises where the service, or billing problems, or other actions occurred and, if known, the telephone number and the account number of those premises. If the complainant resides at a different address, the complaint should also state where a response to the complaint is to be mailed. The complainant may shall also provide a telephone number and electronic mail address where the complainant can be reached during the day.

d. The nature of the complaint, and efforts made to resolve the matter. Documents—e.g., bills or Bills, correspondence, — or other relevant documents should be included if they the documents will add to aid the board's understanding of the utility utility's action or practice about which the complaint is made. If known, references to statutes or rules believed to govern the outcome of the complaint should be included. Also, a description of the efforts made by the complainant to resolve the complaint with the utility should be included.

e. A proposal for resolving the complaint. The proposal should refer to any known statutes, board orders, or rules authorizing the remedy request that support the resolution proposed by the complainant.

6.2(2) Request for additional information. If the board staff determines that additional information is needed in order to resolve the complaint prior to forwarding the complaint to the utility, the complainant will be notified that specified additional information should be filed provided. If the requested additional information is not provided within 20 days, the complaint may be dismissed. Dismissal of the complaint on this basis does not prevent the complainant from filing in the future a complaint that includes the requested information.

ITEM 3. Amend rule 199—6.3(476) as follows:

199—6.3(476) Processing the informal complaint. When the board receives a written complaint that includes the necessary information outlined in rule 199—6.2(476), the board staff shall initiate the informal complaint process by opening an investigation into the complaint and assigning the informal complaint a file number. The following informal complaint procedures will shall be followed during the investigation:

6.3(1) The Within ten days after receipt of the written complaint, or of any additional information requested, staff shall forward to the public utility and the consumer advocate the complaint letter and any supplemental additional information filed provided by the complainant will be forwarded to the public utility.

6.3(2) A copy of the complaint and any supplemental information will be forwarded by the staff to the consumer advocate.

~~6.3(3)~~ **6.3(2)** The utility shall, ~~within 20 days of the date on which the complaint is forwarded to the utility by the board, file a response~~ respond to the complaint ~~with the to board staff~~ and shall at the same time send a copy of its response to the complainant and the consumer advocate, within 20 days of the date the board staff forwards the complaint to the utility. Prior to the date the response is due, the utility may request an extension of time to respond to the complaint. Staff shall notify the utility, the complainant, and the consumer advocate within five days whether the request for an extension is granted and of the length of the extension, if granted.

6.3(3) The utility shall specifically address each allegation made by the complainant and ~~recite~~ provide any supporting facts, statutes, rules, board orders, or tariff provisions supporting its response. The utility shall ~~enclose~~ include copies of all related letters, records, or other documents not supplied by the complainant, and all records concerning the complainant that are not confidential or privileged. In cases involving confidential or privileged records, the response shall advise of the records' existence.

ITEM 4. Amend rule 199—6.4(476) as follows:

199—6.4(476) Proposed resolution of an informal complaint.

6.4(1) ~~When~~ After the utility ~~utility's~~ response is received, the staff may request ~~from any party any~~ additional information deemed necessary to complete the investigation and resolve the complaint. ~~When satisfied that all necessary information has been gathered received and the investigation is complete, the staff will respond by letter~~ shall, within 30 days, send a letter with a proposed resolution of the complaint to the complainant, ~~with a copy to the utility, and the consumer advocate acknowledging resolution of the complaint or proposing an appropriate resolution of the complaint.~~

6.4(2) ~~If the staff determines that the action required by the proposed resolution has not been carried out, or new facts arise, the record may be reopened by issuing notice to the parties of further investigation. In the proposed resolution, board staff shall inform the parties of their right to request formal proceedings. If no party files a request for formal proceedings within 14 days pursuant to subrule 6.5(1), the parties shall be deemed to have accepted the proposed resolution which shall be binding. Once the proposed resolution is accepted, or deemed accepted, the parties shall comply with the terms and conditions of the proposed resolution.~~

6.4(3) After the proposed resolution is issued, the complainant, utility, or consumer advocate may request in writing that staff reopen the investigation to consider additional information, changed circumstances, or other relevant information not provided in the initial investigation, regarding the complaint. The request to reopen the investigation shall be made within 14 days of issuance of the proposed resolution. Within five days of receiving the request, staff shall send a response to the request to reopen the investigation, either advising the parties that the investigation will be reopened and a second proposed resolution will be issued or denying the request. If the request to reopen the investigation is denied, the complainant, utility, or consumer advocate has 14 days from the issuance of the denial to request that the board open a formal complaint proceeding pursuant to subrule 6.5(1).

6.4(4) Failure by any person to comply with the proposed resolution shall be considered a new complaint, and the procedures in this chapter shall be followed to have that issue addressed by the board.

ITEM 5. Amend rule 199—6.5(476) as follows:

199—6.5(476) Initiating formal complaint proceedings.

6.5(1) *Request for formal proceeding based upon a proposed resolution.* ~~If the consumer advocate, the complainant, or the public utility is dissatisfied does not agree with the proposed resolution, a request for a formal complaint proceedings proceeding may be made in writing within 14 days of the issuance of the proposed resolution. Parties will be informed of their right to request formal proceedings. A request for civil penalties, in accordance with Iowa Administrative Code 199—Chapter 8, may also be filed at this time. Failure to file a request for civil penalties at this time does not preclude a party from requesting civil penalties at a later date during formal proceedings. If no request for formal proceedings is made within 14 days after issuance of the proposed resolution or the specified date of utility action, the proposed resolution will be deemed binding on all parties. The board may initiate formal proceedings~~

~~and seek civil penalties at any time on its own motion. The request for a formal proceeding shall be considered as filed on the date of the United States Postal Service postmark, the date of electronic mail, or the date of in-person delivery to the board's customer service center. The request shall include the file number marked on the proposed resolution. The request shall explain why the proposed resolution should be modified or rejected and shall propose an alternate resolution. All parties to the informal complaint shall be provided copies of the request for a formal proceeding. Any other party to the informal complaint investigation may submit a response to the request for a formal proceeding within ten days of the date the request was submitted to the board.~~

6.5(2) *Request for a formal complaint proceeding by pleading.* The request for formal complaint proceedings shall be filed within 14 days after issuance of the proposed resolution or the specified date of utility action, whichever is later. The request shall be considered as filed on the date of the United States Postal Service postmark, the date personal service is made, or the date received and accepted in the board's records and information center. The request shall be in writing and must be delivered by United States Postal Service, other delivery service, personal service, or through the board's electronic filing system pursuant to 199—Chapter 14. The request shall include the file number (C-XX-XXX or C-XXXX-XXXX) marked on the proposed resolution. It shall explain why the proposed resolution should be modified or rejected and propose an alternate resolution, including any temporary relief desired. Copies of the request shall be mailed to the consumer advocate and the parties. Any person may request that a formal complaint proceeding be opened. The board may conduct an informal investigation pursuant to rule 199—6.2(476) before granting or denying the request for a formal complaint proceeding. A person filing a request for a formal complaint proceeding shall participate in the informal complaint investigation.

6.5(3) *Request for formal complaint proceeding.* Upon receipt of a request for a formal complaint proceedings, the proceeding, whether based upon a proposed resolution or a pleading, board staff shall consider whether prepare a recommendation to the board whether to grant or deny the request for a formal complaint proceedings should be initiated and issue an order proceeding. If the board denies formal complaint proceedings, a party may file a petition for judicial review either in the Polk County district court or in the district court for the county in which the party resides or has its principal place of business pursuant to Iowa Code section 17A.19. If formal complaint proceedings are initiated, an order will be issued docketing the case as a formal complaint and granting or denying, in whole or in part, any temporary relief requested. The board will review any investigation conducted by staff and staff's recommendation and shall issue an order either granting or denying a formal complaint proceeding. If the board grants the request for a formal complaint proceeding, the board will issue a procedural schedule or conduct a scheduling conference as required for a contested case proceeding.

ITEM 6. Amend rule 199—6.7(476) as follows:

199—6.7(476) Record. The written complaint and all supplemental information obtained during the informal investigation shall be uploaded into the electronic filing system formal complaint docket and shall be made part of the record in the formal complaint proceeding. The information from the informal complaint investigation shall be redacted pursuant to requirements in 199—Chapter 7.

ITEM 7. Amend **199—Chapter 6**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 476.2, 476.3, 476.103 and 546.7 and Iowa Code Supplement section 476.103.